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Brian T. Worsham

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EXAMINER

NGUYEN, THUY-VI THI

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/665,899	Applicant(s) WORSHAM ET AL.	
	Examiner THUY-VI NGUYEN	Art Unit 3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/14/09.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-35; 37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-35; 37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 December 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims Status

1. This is in response to the applicant's communication filed on 12/14/2009 wherein:

Claims 19-35, 37 are currently pending;

Claims 19, 23, 25, 32 have been amended;

Claims 1-18 and 36 have been cancelled;

As of 12/14/09, independent method claim 19 is amended as followed:

19. (Currently amended) A computer-implemented method of returning customized information from a specified database comprising a computer-readable storage medium in response to requests about a specific tangible object having attributes, the method comprising:

~~receiving at a computer a first request from a first venue for information on the specific tangible object in inventory;~~

generating a first view of the specific tangible object for the first venue by,

~~reading accessing a representation of the tangible object from the computer readable storage medium in the specified database, the representation including a plurality of attributes of the specific tangible object[[;]],~~

selecting from the plurality of attributes of the specific tangible object, a first set of attributes to be included in the first view using a first rule associated with the first venue,

generating [[a]] the first view of the specific tangible object ~~wherein the first view is generated by applying a first rule associated with the first venue to the representation of the specific tangible object such that the first view includes only attributes in compliance with the first rule;~~ comprising the first set of attributes, and ~~returning~~ transmitting the first view to the first venue,

~~receiving at the computer a second request from a second venue for information on the same specific tangible object;~~

generating a second view of the specific tangible object for a second venue by, accessing the same representation of the same specific tangible object in the same specified database, the representation including the same plurality of attributes,

selecting from the plurality of attributes, a second set of attributes to be included in the second view using a second rule associated with the second venue, wherein at least one attribute in the second set is not included in the first set,

generating [[a]] the second view of the same specific tangible object ~~wherein the second view is generated by applying a second rule associated with the second venue to the same representation of the same specific tangible object read from the same computer-readable storage medium such~~

~~that the second view includes only attributes in compliance with the second rule, and wherein the second view differs from the first view in that at least one attribute included in the second view is not included in the first view;~~
comprising the second set of attributes, and returning-transmitting the second view to the second venue.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 19 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In accordance with *In re Bilski*, 88 USPQ2d 1385 (Fed.Cir. 2008) the **Machine -or-Transformation Test**, the claimed process must:

- (1) be tied to a particular machine or apparatus (machine implemented); or
- (2) particularly transform a particular article to a different state or thing.

A method claim that does not require machine implementation or does not cause a transformation will fail the test and should be rejected under § 101. However, the mere presence of a machine tie or transformation is not sufficient to pass the test. When a machine tie or transformation has been identified, it must be further determined that the tie is to a **particular** machine or the particular transformation is of a **particular** article. Additionally, the particular machine tie or particular transformation must meet two corollaries to pass the test for subject matter eligibility. First, the use of the particular machine or transformation of the particular article must impose a **meaningful**

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limit on the claim's scope. So, a machine tie in only a field-of-use limitation would not be sufficient.

Second, the use of the particular machine or the transformation of the particular article must involve **more than insignificant "extra-solution" activity**. If the machine or transformation is only present in a field-of-use limitation or in a step that is only insignificant "extra-solution" activity, the claim fails the Machine-or-Transformation test, despite the presence of a machine or a transformation in the claim.

With respect to claim 19, the claim language does not transform the underlying subject matter and the process is not tied to a particular machine. For instance in claim 19, the process steps of "*generating....; selecting....; accessing....; transmitting...*" is not tied to a particular machine, and thus the claims are directed to nonstatutory subject matter.

As for the limitation "a specified database comprising a computer-readable storage medium", the recitation has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Note also that the limitations of "at a computer", which provides the "tie to a machine" test, at several places in the body of the previous claim have been canceled.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 20 recites the limitation "receiving at the computer ", there is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims **19-24** (method), **25-31** (method), and **32-35 and 37** (method) are rejected under 35 U.S.C. 102(e) as anticipated by SKORSKI (US 2004/0012631).

As for independent claim 19, SKORSKI discloses a computer-implemented method of returning customized information from a database comprising a computer-readable storage medium in response to requests about a specific tangible object having attributes, the method comprising:

a) generating a first view of the specific tangible object for the first venue by,
i) accessing a representation of the tangible object in the specified database, the representation including a plurality of attributes of the specific tangible object,

{see figures 1-2, pars. 0009-0010 wherein SKORSKI discloses “*display data (product information) according to selected criteria, and in different formats, according to the type of user that accesses information. In such manner, different populations of users can access different catalogs built from the same data*”.

pars. 0028-0029 discloses “*a patient accessing the online medical store (first venue) for patitents will view product information and see a displayed retail price*”}

{see figure 1-2 at least pars. 0019, 0021-0022 wherein SKORSKI discloses the distributor product's database (single database) stores the product/object. The product/object comprising plurality of attributes/representation (product name, product SKU number, different prices for a particular product).

ii) selecting from the plurality of attributes of the specific tangible object, a first set of attributes to be included in the first view using a first rule associated with the first venue,

{see pars. 0009-0010 wherein SKORSKI inherently discloses using a first rule. For example: “*display data (product information) according to selected criteria, and in different formats, according to the type of user that accesses information. In such manner, different populations of users can access different catalogs built from the same data*”; and par. 0024, 0025, wherein SKORSKI discloses *select product by product group identification* (first rule) and then by *specific products* };

iii)generating the first view of the specific tangible object comprising the first set of attributes, and transmitting the first view to the first venue,

{see pars. 0028-0029 for generating a first view for a specific tangible object/particular product. For example “*a patient accessing the online medical store (first venue) for patitents will view product information and see a displayed retail price (a first set of attributes)*”};

b) generating a second view of the specific tangible object for a second venue by,

i) accessing the same representation of the same specific tangible object in the same database, the representation including the same plurality of attributes,

{see figures 1-2, pars. 0009-0010 wherein SKORSKI discloses “*display data (product information) according to selected criteria, and in different formats, according to the type of user that accesses information. In such manner, different populations of users can access different catalogs built from the same data*”.

{see pars. 0028-0029 for generating a second view for the specific tangible object/particular product. For example “*a patient accessing the online medical store for patitents will view product information and see a displayed retail price (first view for a first user/venue) while the retailer physician’s practice will see the same item (product) at a different price (second view for a second user/venue)*”}

{see figure 1-2 at least pars. 0019, 0021-0022wherein SKORSKI discloses the distributor product's database (single database) stores the product/object. The

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product/object comprising plurality of attributes/representation (product name, product SKU number, different prices for a particular product).

ii) selecting from the plurality of attributes, a second set of attributes to be included in the second view using a second rule associated with the second venue, wherein at least one attribute in the second set is not included in the first set,

{see pars. 0009-0010 wherein SKORSKI inherently discloses using second rule. For example: “*display data (product information) according to selected criteria, and in different formats, according to the type of user that accesses information. In such manner, different populations of users can access different catalogs built from the same data”}; and pars. 0028-0029 discloses using a second rule to filter information e.g. “*a patient accessing the online medical store for patients will view product information and see a displayed retail price (a first set of attributes), while the retailer physician’s practice will see the same item (product) at a different price (a second set of attribute),**

iii) generating the second view of the same specific tangible object comprising the second set of attributes, and transmitting the second view to the second venue,

{see pars. 0028-0029 for generating a second view for the specific tangible object/particular product. For example “*a patient accessing the online medical store for patients will view product information and see a displayed retail price (first view for a first venue) while the retailer physician’s practice will see the same item (product) at a different price (second view for a second venue)*”}.

Note that the general concept of generating a view (or display or web page) of the object based on a rule (first rule, second rule) associated with the first venue,

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second venue (first user, second user) is inherently included in the teachings of SKORSKI as shown on pars. [0009, 0016, 0022-0024, and Figs. 2-3].

Note: This appears to be a "data processing" method, therefore, the limitation after "data" or "information" or "plurality of attributes" or "set of attributes" or "view" or "specific tangible object" etc, have been determined to be non-functional descriptive material (NFDM), thus having no patentable weight and does not need to be taught by the prior art. Nonfunctional descriptive material can not render nonobvious an invention that would have other wise been obvious. In re Gulack, 703 F. 2d 1381, 1385, 217 USPQ 401, 40-4 (Fed. Cir. 1983) (when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability. See MPEP 2106.01.

As for dep. claim 20, which discloses the receiving attribute to the specific product or object and storing the attribute in the computer readable storage medium, this inherently included in SKORSKI, see figure 1-3, at least pars. 0019-0020, 0028-0029.

As for dep. claim 21, which describes the specific function of the object or data stored in the database, i.e. an automobile, this is non-functional descriptive material (NFDM) and has no patentable weight. Furthermore, this is inherently taught in SKORSKI as shown in the catalog product database; par. 0003-0005.

As for dep. claim 22, which discloses the venues a re websites accessible by users at remote locations, this is taught in SKORSKI figures 1-3, pars. 0018-0019, 0021, 0023.

As for dep. claim 23, SKORSKI discloses different group identification information view different price/attribute for a specific product/object as indicated above. This is inherently included the generating the third view of the specific object by applying the third rule in the database {see SKORSKI pars. 0028-0029, figure 2}.

As for dep. claim 24, which discloses the first view includes the first value and excludes the second value, and the second view include the second value excluded the first value, this is inherently taught in SKORSKI see figure 2, pars. 0028-0029.

As for independent method claim 25, which is the combination of independent method claim 19 and 20, it's rejected for the same reason sets forth in the rejection of claims 19 and 20 above.

As for dep. claims 26-30, which basically have the same limitation as in dep. claims 20-24 above, they are rejected for the same reason set forth in the rejection of dependent claims 20-24 above.

As for dep. claim 31, which describes the specific function of first attribute and second attribute (first data and second data), wherein the first data/attribute is a price of the product, and 2nd data is different monetary values. These data or attribute are non-functional descriptive material (NFDI) and has no patentable weight. Furthermore, this is inherently taught in SKORSKI as shown in the catalog product database; par. 0003-0005.

As for independent claim 32, SKORSKI discloses a computer implemented method of returning customized information from a database in response to requests about specific tangible objects, wherein the database comprises a computer readable

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storage medium upon which representations of the specific tangible objects are stored, each representation comprising respective attributes of the specific tangible objects including an identifier {see figure 1-2; pars. 0019-0020}, the method comprising:

a) receiving at a computer a first request from a first venue for information on the specific tangible objects in an inventory;

{see figure 1-3, at least pars 0019, 0026-0029 wherein SKORSKI inherently discloses the receiving a request for a specific tangible object, e.g. consumer *selects a link requesting* the online catalog for purchasing a product/object, the consumer *generates an input request* for a particular product, and information about the product will be retrieved, e.g. a user request may be is a retailer or a patient}

b) generating a first view of specific tangible objects, wherein generating the first view comprises

i) selecting a first set of specific tangible objects from the objects in inventory for inclusion in the first view by applying a first rule associated with the first venue to the representations of the specific tangible objects stored in the database, wherein the first set of objects includes only those objects having identifier attributes that are in compliance with the first rule

{see figures 1-2, at least pars. 0009-0010 wherein SKORSKI discloses different type of user access (different rules) to see/view different type/attribute of specific product depend of the user's level access into the database system. For example: “display data (product information) according to selected criteria, and in different formats, according to the type of user that accesses information (rules). In such

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manner, different populations of users can access different catalogs built from the same data”, and also

see pars. 0019, 0021 discloses representation of the specific objects stored in the database; and par. 0024, 0025, wherein SKORSKI discloses generating a first view of the object applying a first rule, and the first view includes only attributes in compliance with the first rule. For example, SKORSKI discloses *select product by product group identification* (first rule) and then by *specific products* };

ii) selecting one or more attributes of the representations of the first set of objects for inclusion in the first view by applying a second rule associated with the first venue to the representations of the first set of specific tangible objects, wherein only those attributes conforming to the second rule are included in the first view

{see figures 1-2, at least pars. 0009-0010 wherein SKORSKI discloses different type of user access (different rules) to see/view different type/attribute of specific product depend of the user's level access into the database system. For example: “*display data (product information) according to selected criteria, and in different formats, according to the type of user that accesses information (rules). In such manner, different populations of users can access different catalogs built from the same data”.*

{see pars. 0024-0025, 0028-0029 SKORSKI discloses *select product by product group identification* (first rule) and then by *specific products* , and the filtering process to display the price/ for a particular product based on identification of user (second rule)

ii) returning the first view to the first venue

{see figures 1-3, pars. 0024-0029, wherein SKORSKI discloses *The price information of other group (e.g. retailer physicians practice group) will be filtered or the retailer physician's practice will see the same item/product at different price*}.

c) generating a second view of the specific tangible objects, wherein generating the second view comprises

i) selecting a second set of specific tangible objects from the objects in inventory for inclusion in the second view by applying a third rule associated with the second venue to the same representations of the same specific tangible objects stored in the database,

see pars. 0019, 0021 discloses representation of the specific objects stored in the database; and par. 0024, 0025, wherein SKORSKI discloses generating a second view of the object applying a third rule, and the first view includes only attributes in compliance with the first rule. For example, SKORSKI discloses *select product by product group identification* (third rule) and then by *specific products*};

ii) selecting one or more attributes of the representations of the second set of objects for inclusion in the second view by applying a fourth rule associated with the second venue to the second set of representations of the specific tangible objects, wherein only those attributes conforming to the forth rule are included in the second view, and wherein the second view differs from the first view in that at least one attribute of the representations of the specific tangible objects included in the second view is not included in the first view; and

{see figures 1-2, at least pars. 0009-0010 wherein SKORSKI discloses different type of user access (different rules) to see/view different type/attribute of specific product depend of the user's level access into the database system. For example: *“display data (product information) according to selected criteria, and in different formats, according to the type of user that accesses information (rules). In such manner, different populations of users can access different catalogs built from the same data”*.

{see pars. 0024-0025, 0028-0029 SKORSKI discloses *select product by product group identification* (third rule) and then by *specific products* , and the filtering process to display the price/ for a particular product based on identification of user (forth rule) for example discloses when the retailer login the distributor's website, the system will display the particular product price wherein this price is different than the price that the system display for the customer (e.g. patient).

iii) returning the second view to the second venue

{see figures 1-3, pars. 0024-0029, wherein SKORSKI discloses *The price information of other group (e.g. retailer physicians practice group) will be filtered or the retailer physician's practice will see the same item/product at different price*}.

Note that the general concept of generating a view (or display or web page) of the object based on a rule (first rule, second rule, third rule and forth rule) associated with the first venue, second venue (first user, second user) is inherently included in the teachings of SKORSKI as shown on pars. [0009, 0016, 0022-0024, and Figs. 2-3].

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Note: This appears to be a “data processing” method, therefore, the limitation after “data” or “information” or “attributes” or “set of tangible object” or “view” or “specific tangible object” etc, have been determined to be non-functional descriptive material (NFDM), thus having no patentable weight and does not need to be taught by the prior art. Nonfunctional descriptive material can not render nonobvious an invention that would have otherwise been obvious. In re Gulack, 703 F. 2d 1381, 1385, 217 USPQ 401, 40-4 (Fed. Cir. 1983) (when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability. See MPEP 2106.01.

As for dep. claims **33-35**, which deal with basically have the same limitation as in dep. claims 20-22 above, they are rejected for the same reason set forth in the rejection of dependent claims 20-22 above.

As for dep. claim **37**, which deals with applying a multiple of rules (second rule or third rule or fourth rule) for each venue, this is inherently disclosed in SKORSKI {pars. 0024, 0028}

Response to Arguments

7. Applicant's arguments with respect to claims 19-37 have been considered but are moot in view of the new ground(s) of rejection.

As for an argument on pages 12-13 of the remark, Applicant stated “SKORSKI fails to disclose generating a first and a second view of an object from the same database, the “catalogs” in SKORSKI are not generated from “the same specified

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database", but required the use of the retailer specific template server; the retailer must define the parameters of the catalog in the template server", and pages 13 Applicant stated " SKORSKI fails to discloses rules for selecting attributes of an object from the same database". is noted. However these are not persuasive for the following reason:

SKORSKI discloses a database storage computer system (a single data base) *which stores substantial indexing information regarding each of the distributor's products* (attributes); and a template server which functions as defining rules or filtering the retailer's web catalog {pars. 0019; 0021-0024}. It is noted that the parameters of the catalog in the template server is the parameters/information of retailer. These parameters are not attributes of the object/product information {par. 0020}.

Furthermore, using a template server/database or additional database for filtering data as shows in SKORSKI does not take a way from the fact that all product data along with parameter e.g. indexing information (attributes/representation) is found in a single database as mention above. Noted that the claim language nearly called for "generating a first view of the specific tangible object by accessing a representation of the tangible object in the specified database" and "generating a second view of the specific object by accessing the same representation of the same specific tangible object in the same specified database" does not excluded using additional database to filter or process the access representation information. Thus, SKORSKI discloses generating a first and second view of the specific object from the same database and all the representation/attributes of the specific tangible object are in the same database as indicated above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy-Vi Nguyen whose telephone number is 571-270-1614. The examiner can normally be reached on Monday through Thursday from 8:30 A.M to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. N./

Examiner, Art Unit 3689

/Tan Dean D. Nguyen/
Primary Examiner, Art Unit 3689

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